

1 Clyde DeWitt
Nevada Bar Number 9791
2 LAW OFFICES OF CLYDE DEWITT, APC
732 S. Sixth Street, Suite 100
3 Las Vegas, NV 89101
(702) 386-1756
4 Fax (310) 362-8667
clydedewitt@earthlink.net

5 Attorney for *Amicus Curiae*,
6 Citizens Against Litigation Abuse, Inc.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
SOUTHERN DIVISION**

RIGHTHAVEN LLC, a Nevada
limited-liability company,

Plaintiff,

vs.

DEMOCRATIC UNDERGROUND,
LLC, a District of Columbia limited-
liability company; and DAVID
ALLEN, an individual,

Defendants.

) Case No: 2:10-cv-01356-RLH-GWF

) Hon. Roger L. Hunt,
United States District Judge

) Hon. George W. Foley
United States Magistrate Judge

) **MOTION OF CITIZENS AGAINST
LITIGATION ABUSE, INC. FOR
LEAVE TO FILE AN *AMICUS*
CURIAE BRIEF**

1 **MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF**

2 Citizens Against Litigation Abuse, Inc. (“*Amicus*”), not a party to this action,
3
4 hereby moves for leave to file the accompanying *Amicus Curiae* Brief in the above-
5 captioned matter, in response to Plaintiff Righthaven LLC’s Application to Intervene
6 as of Right Pursuant to Federal Rule of Civil Procedure 24(A)(2), Doc. #120. No
7
8 parties have been contacted with regard to the filing of this brief. The undersigned
9 respectfully request the Court’s indulgence with this motion, which is slightly longer
10 than a typical motion for leave to file such a brief. The undersigned seek not to
11 present argument in this motion but to demonstrate the deeply important First
12 Amendment issues involved in the Righthaven litigation.
13

14 The impetus behind *Amicus* presenting a brief to this Court is Righthaven’s
15 newly-filed Application to Intervene. *Amicus* submits that the argument in
16 Righthaven’s Application to Intervene regarding assignments is deeply flawed, as
17 explained in the brief. Righthaven has signaled its intent to continue modifying its
18 assignments, over and over, until it finds the magic words that allow it to continue its
19 litigious campaign. *Amicus* respectfully submits that the argument and authority in its
20 brief will potentially be of assistance to the Court in resolving these matters with
21 some permanence.
22
23
24
25
26
27
28

1 *Amicus* Citizens Against Litigation Abuse is a South Carolina nonprofit
2 corporation.¹ As its name implies, *Amicus* has an interest in preventing and opposing
3 abusive litigation. *Amicus* focuses on opposing abusive litigation in areas relating to
4 political speech and strategic lawsuits against public participation, known as SLAPP
5 lawsuits. *Amicus* is associated with attorney J. Todd Kincannon, a member of the
6 South Carolina Bar who represents the Lowcountry 9/12 Project, a Tea Party group,
7 and its president, Dana Eiser in Righthaven litigation in South Carolina. Mr.
8 Kincannon and his clients have a direct financial interest in the outcome of that
9 litigation, and that litigation may well be affected by this Court's decision. Mr.
10 Kincannon is presently seeking admission *pro hac vice* in Righthaven v. Pahrump
11 Life, 2:10-cv-01575-JCM-PAL connected with the filing of an *amicus curiae* brief in
12 that case.

13 The Righthaven cases directly implicate freedom of speech and have an
14 obvious chilling effect on core political speech on the Internet. A large proportion of
15 Righthaven cases involve core political speech, as one would expect with lawsuits
16 filed over material appearing in newspapers. Righthaven has sued political speakers
17 from all over the political spectrum. From left to right, from radical to moderate; no
18 group has escaped Righthaven's litigation campaign. The following politically-
19 oriented defendants jump out from just a quick scan of a list of Righthaven cases:
20
21
22
23
24
25

26 _____
27 ¹ There are other entities with similar names in other states. South
28 Carolina's Citizens Against Litigation Abuse is not formally or informally affiliated
with any other such entity.

- 1 • Former Republican Senate nominee Sharron Angle;
- 2 • The Democratic Party of Nevada;
- 3
- 4 • The Democratic Underground website;
- 5 • Free Republic LLC, a conservative website;
- 6 • The Drudge Report, a major political news website;
- 7
- 8 • The Center for Intercultural Organizing;
- 9 • Thoughts From A Conservative Mom;
- 10
- 11 • Pajamas Media, a major political blogging association;
- 12 • The Second Amendment Foundation;
- 13 • Virginia Citizens Defense League, Inc.;
- 14
- 15 • Climate Change Fraud;
- 16 • The United States Marijuana Party;
- 17
- 18 • David Duke, a white supremacist and erstwhile politician;
- 19 • European-American Unity and Rights Organization, associated with Duke;
- 20 • Americans Against Food Taxes;
- 21 • America's Independent Party of Iowa;
- 22 • Americans for Legal Immigration Political Action Committee;
- 23 • American Political Action Committee;
- 24 • WeHateGringos.com, immigration activists;
- 25 • Second Amendment Sisters, Inc.;
- 26
- 27
- 28

- 1 • Americans for Immigration Reform;
- 2 • Americans for Democratic Action, Inc.;
- 3
- 4 • Independent Political Report;
- 5 • No Quarter, a national security and terrorism blog;
- 6 • Progressive Leadership Alliance of Nevada;
- 7
- 8 • Citizens for Responsibility and Ethics in Washington, Inc.;
- 9 • National Organization for the Reform of Marijuana Laws;
- 10
- 11 • Free Speech Systems, LLC; and
- 12 • Alex Jones, a libertarian talk radio host.

13 \\\

14 \\\

15 \\\

16 \\\

17 \\\

18 \\\

19 \\\

20 \\\

21 \\\

22 \\\

23 \\\

24 \\\

25 \\\

26 \\\

27 \\\

28 \\\

1 Righthaven does not sue people who have downloaded pirated movies or
2 music. Righthaven sues people who are communicating their views about issues of
3 the day and discussing important matters of public interest. Righthaven's litigation
4 strategy is so brutal and abusive that the words "chilling effect" simply do not do it
5 justice. The free and open exchange of ideas is fundamental to American democracy.
6 Righthaven jeopardizes that, and for that reason Citizens Against Litigation Abuse
7 respectfully requests leave to file an *amicus curiae* brief in this matter.
8
9

10 Dated: June 28, 2011

Respectfully Submitted,

11
12 CLYDE DeWITT
13 LAW OFFICES OF CLYDE DeWITT, APC
14

15 By: /s/ Clyde DeWitt
16 Clyde DeWitt

17 Counsel for *Amicus Curiae*,
18 Citizens Against Litigation Abuse, Inc.
19
20
21
22
23
24
25
26
27
28